



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2017-0637; FRL- 9980-70-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans; MD;
Emissions Statement Requirement for the 2008 Ozone Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Maryland. This SIP revision fulfills Maryland's emissions statement requirement for the 2008 ozone national ambient air quality standard (NAAQS). EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2017-0637. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the "For

Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Erin Trouba, (215) 814-2023, or by e-mail at trouba.erin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 20, 2018 (83 FR 7124), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. In the NPR, EPA proposed approval of Maryland’s certification that Maryland’s emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA for the 2008 ozone NAAQS. The formal SIP revision (#17-02) was submitted by Maryland, through the Maryland Department of the Environment (MDE), on September 25, 2017.

II. Summary of SIP Revision and EPA Analysis

In Maryland’s September 25, 2017 SIP revision submittal, Maryland states that the existing COMAR 26.11.01.05-1 “Emissions Statements” rule satisfies CAA section 182(a)(3)(B) for the 2008 ozone NAAQS. Under CAA section 182(a)(3)(B), states are required to have an emission statements rule for nonattainment areas for the 2008 ozone NAAQS. In addition, states in the ozone transport region are required to have an emission statement rule statewide, including for attainment areas. *See* CAA sections 182(a)(3)(B), 182(f), and 184(b)(2). EPA previously approved Maryland’s emissions statement rule for the 1979 1-hour ozone standard, COMAR 26.11.01.05-1, into the Maryland SIP. *See* 59 FR 51517 (October 12, 1994). EPA has determined that COMAR 26.11.01.05-1, which is currently in the Maryland SIP, is appropriate to address the emissions statement requirement in section 182(a)(3)(B) for the 2008 ozone

NAAQS. Therefore, EPA is approving this SIP revision that certifies that COMAR 26.11.01.05-1 is adequate. Other specific requirements of the revised Maryland COMAR regulations and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

III. Public Comments and EPA's Responses

EPA received fourteen public comments on our February 20, 2018 NPR proposing to approve Maryland's September 25, 2017 submittal. Only one comment was adverse and relevant to this action. The adverse comment is summarized and responded to in the following paragraph. All other comments received were not specific to this action, and thus are not addressed here.

Comment: The commenter alleges that the EPA is requesting a modification to Maryland's SIP. The commenter stated that this action will not directly affect Maryland's atmosphere, small businesses, organizations or governments. The commenter stated that EPA could choose to not change the SIP and leave the regulations as they are without effect to pollutant emissions. The commenter also expressed the need for more detailed social and cultural impacts of the plan revision and stated social and cultural effects should be monitored as the plan is implemented. Finally, the commenter stated further impacts should be evaluated once the "new plan" is established.

Response: Maryland submitted this SIP revision certifying that requirements already in the Maryland SIP are adequate to meet the statutory requirement of section 182(a)(3)(B) as it pertains to the 2008 ozone NAAQS. Section 110(k)(3) states that "the Administrator shall approve a plan revision as a whole if it meets all of the applicable requirements of the CAA. As stated in the NPR, Maryland's submission meets requirements in CAA section 182 for emission statements. Thus, pursuant to section 110(k)(3), EPA does not have discretion to disapprove the

submittal if the state-requested SIP revision meets the requirements of section 182(a)(3)(B).

This action pertains to certification of the requirement for the State of Maryland to have an emissions statement rule for the 2008 8-hour ozone standard for nonattainment areas. The State has certified that the state regulation that is already in the existing SIP is adequate. EPA is approving the State certification and not imposing any new requirements. EPA disagrees with the commenter that further social and cultural “impacts” should be evaluated because nothing in the CAA requires monitoring of such impacts from SIP revisions.

IV. Final Action

EPA is approving the State of Maryland’s September 25, 2017 SIP revision submittal which addresses the 2008 8-hour ozone NAAQS emissions statement requirements as a revision to the Maryland SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, approving Maryland's certification that its SIP-approved emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA for the 2008 ozone NAAQS, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 27, 2018.

Cecil Rodrigues,
Acting Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V--Maryland

2. In § 52.1070, the table in paragraph (e) is amended by adding the entry for Maryland's emission statement requirement certification for the 2008 ozone national ambient air quality standard at the end of the table to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e)* * *

EPA approved non-regulatory and quasi-regulatory material

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	* *	* *		
Emission statement requirement certification for the 2008 ozone national ambient air quality standard	State-wide	September 25, 2017	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	Certification that Maryland's previously approved regulation at COMAR 26.11.01.05-1 meets the emission statement requirements for the 2008 ozone NAAQS

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